IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 8851 of 2005

Between:

B. Bhadraiah S/o. Madhavaiah
R/o. H.No. 14-1-228, Nataraj Centre, Palvoncha, Khammam District.

..... PETITIONER

AND

1 The Station House Officer, Enkoor Police Station,

Khammam District.
2 D. Sireesha D/o. Mohan Rao, R/o 3-8-8, Sujathanagar, Kothagudem, Mandal, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue appropriate writ or order or orders and more particularly in the nature of WRIT OF CERTIORARI and quash FIR No. 53 of 2004 on the file of the 1st Respondent, by calling the entire records and to pass such other order or orders as deem fit and proper in the circumstances of the case and in the interest of justice, equity and good conscience, as otherwise, the petitioner shall be put to grave and inexplicable hardship and injury.

Counsel for the Petitioner:MR.PALIVELASATYARAJA BABU

Counsel for the Respondents : GP FOR HOME

The Court made the following :

O R D E R

Heard both the counsel.

2. This writ petition is filed aggrieved by the registration of F.I.R. at the instance of the 2nd respondent on the ground of committing willful default in payment of monthly installment of Rs.3,000/-, during the year 1994-95 to Vadavi Deposits and Auto Financers.

3. As could be seen from the contents of F.I.R. it is clear that the amount, which is due from the petitioner, was during the year 1994-95. For recovery of the amount, the 2nd respondent ought to have instituted the suit within the period of limitation. Therefore, it is clear that when the 2nd respondent is deprived of filing a suit for recovery of the amount on the ground of limitation, resorted to filing a complaint before the police, which is not permissible and liable to be quashed.

4. Normally the F.I.R. can be quashed under Section 482 Cr.P.C. But considering the facts and circumstances of the case, I deem it appropriate to exercise the extraordinary jurisdiction under Article 226 of the Constitution of India.

5. Accordingly, the writ petition is allowed and the proceedings in Crime No.53/2004 on the file of 1ST respondent – Station House Officer, Enkoor Police Station, Khammam District, is quashed. No costs.

ELIPE DHARMA RAO,J

Note:

C.C. in one week.

B/O

AVS/MRB

DATE:21.04.2005

.. REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1) 1 The Station House Officer, Enkoor Police Station,

Khammam District.
2 D. Sireesha D/o. Mohan Rao
Khammam District.

3 2 CCS to G.P. for Home, A.P. High Court Buildings (OUT)

4) 1 CC to MR.SATYARAJA BABU

*Form-NIC-OGS/WP{**VSMI**}*